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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,475	06/16/2001	Eric Harold Henrikson	42430-10455	1203
7590	01/02/2004		EXAMINER	
Patent Docket Clerk Jenner & Block LLC One IBM Plaza Chicago, IL 60611				ENG, GEORGE
			ART UNIT	PAPER NUMBER
			2643	

DATE MAILED: 01/02/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/883,475	HENRIKSON, ERIC HAROLD	
	<b>Examiner</b>	Art Unit	
	George Eng	2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 02 October 2003.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-18 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-18 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
 a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

***Response to Amendment***

1. This Office action is in response to the amendment filed 10/2/2003 (paper no. 6).

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4-8 and 11-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Kannes (US PAT. 5,382,972).

Regarding claim 1, Kannes discloses a method for selecting a primary video image for displaying on a large picture region from a plurality of video image in a conference system that supports conference calls including an audio portion and video portion comprising the steps of determining an amount of audio signal generated by each participant of a plurality of participant, selecting a dominating audio participant, i.e., a speaker, from the plurality of participants based upon the amount of audio data generated by each participant of the plurality of participants, and selecting a primary video based on the dominating audio participant (col. 5 line 25 through col. 6 line 48 and col. 13 lines 37-58).

Regarding claim 4, Kannes discloses that the primary video image (200, figure 4A) is larger than a plurality of remaining video images of the plurality of video images (201-204, figure 4A).

Regarding claim 5, Kannes teaches the step of maintaining the primary video image for at least a predetermined period of time (col. 15 lines 53-68).

Regarding claim 6, Kannes discloses a method for selecting a primary video image for displaying on a large picture region from a plurality of video image in a conference system that supports conference calls including an audio portion and video portion comprising the steps of determining an amount of audio signal generated by each participant of a plurality of participant, determining whether a difference between an amount of audio data generated by one participant of the plurality of participants and an amount of audio data generated by other participants of the plurality of participants exceeds a predetermined threshold, selecting a dominating audio participant from the plurality of participants based upon the amount of audio signal generated by each of the plurality of participants if the difference exceeds the predetermined threshold and selecting a primary video based on the dominating audio participant (col. 5 line 25 through col. 6 line 48, col. 13 lines 37-58 and col. 15 line 40 through col. 16 line 16).

Regarding claim 7, Kannes teaches the dominating audio participant, i.e., the speaker, generating an amount of audio data that exceeds an amount of audio data generated by each of a plurality of remaining participants of the plurality of participants (col. 5 line 67 through col. 6 line 4).

Regarding claim 8, Kannes teaches the steps of determining a loudness of audio for each participant of the plurality of participants if the difference does not exceed the predetermined

threshold and selecting the dominating audio participant based on the loudness for each participant of the plurality of participants (col. 16 line 1-16).

Regarding claim 11, the limitations of the claim are rejected as the same reasons set forth in claim 4.

Regarding claim 12, the limitations of the claim are rejected as the same reasons set forth in claim 5.

Regarding claim 13, Kannes discloses an apparatus for selecting a primary video image for displaying on a large picture region from a plurality of video image in a conference system that supports conference calls including an audio portion and video portion comprising first processing means for determining an amount of audio signal generated by each participant of a plurality of participant, second processing means selecting a dominating audio participant, i.e., a speaker, from the plurality of participants based upon the amount of audio data generated by each participant of the plurality of participants, and third processing means selecting a primary video based on the dominating audio participant (col. 5 line 25 through col. 6 line 48 and col. 13 lines 37-58).

Regarding claims 14-15, Kannes teaches a computer (68) including the first processing means, the second processing means and the third processing means for implementing automatic video signal selection operation (col. 15 line 40 through col. 16 line 16).

Regarding claim 16, the limitations of the claim are rejected as the same reasons set forth in claim 4.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-5, 9-10 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kannes (US PAT. 5,382,972) in view of Iizawa (US PAT. 5,801,756).

Kannes differs from the claimed invention in not specifically teaching to determine an amount of audio data by counting a number of audio samples in audio packets generated by each participant of the plurality of participants. However, Iizawa discloses a multipoint video conference system utilizing a counter table for counting audio samples in audio packets generated by each participant of a plurality of participants in order to simply and efficiently of selecting speaker (col. 3 line 46 through col. 5 line 5). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Kannes in determining the amount of audio data by counting the number of audio samples in audio packets generated by each participant of the plurality of participants, as per teaching of Iizawa, because it makes simply and efficiently of selecting speaker.

***Response to Arguments***

6. Applicant's arguments filed 10/2/2003 (paper no. 6) have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., compares the amount of audio data generated by each participant and selects a primary video image of the participant based upon that comparison) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument that Kannes does not disclose "determining an amount of audio data generated by each participant of a plurality of participants in a conference call" selecting a dominating audio participant ... based upon the amount of audio data generated by each participant of the plurality of participants", it appears Kannes clearly teaches to determine whether two or more conferees attempt to speak nearly simultaneously or simultaneously in order to control for switching the assignment of video signals (col. 5 line 44 through col. 6 line 21), wherein the determination including to determine each conferee whose microphone signal has instantaneous amplitude in excess of the predetermined threshold (col. 16 lines 1-16). Thus, it recognizes Kannes inherently in teaching to determine the mount of audio data generated by each conferee of a plurality of participants in a conference call. In addition, Kannes teaches to select one of conferees when more than one conferees having the "active microphones", i.e., the amount of audio data generated by the conferees being exceed in the predetermined threshold so that it recognizes Kannes teaching to select one of the conferees as an active speaker from the plurality of conferees in a preset alternating pattern or with a preset frequency when the amount of audio data generated by the plurality of conferees are exceed the predetermined threshold so that the selection is based upon the amount of audio data generated

by each conferee. Note while the claimed language fail to clearly define how to select a dominating audio participant from the plurality of the participants based upon the amount of audio data generated by each participant of the plurality of participants. Thus, Kannes is enough to reject the broad claimed limitations recited in claims 1, 6 and 13.

In response to applicant's argument that neither Kannes nor Iizawa teaches to count a number of audio packets or counting an amount of audio samples in audio packets, it appears that Iizawa teaches a controller including a count table to count an utterance time of each participant by counting the utterance of each participant (col. 3 lines 46-57), wherein the utterance of each participant obviously includes audio data comprising audio packets generated by each participants and audio samples in audio packets. Thus, it recognizes Iizawa teaches to determine to count the number of audio packet and the amount of audio samples in audio packets generated by counting the utterance time of each participant. Note while Iizawa teaches to select image signal from decoders in accordance with the utterance time of speakers, i.e., a number of audio packets and the amount of audio samples in audio packets. As a result, the claimed limitations are rejected by the combination of Kannes and Iizawa.

### *Conclusion*

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any response to this final action should be mailed to:

BOX AF

Commissioner of Patents and Trademarks

Washington D.C. 20231

Or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, V.A., Sixth Floor (Receptionist).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Eng whose telephone number is 703-308-9555. The examiner can normally be reached on Tuesday to Friday from 7:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis A. Kuntz, can be reached on (703) 305-4870. The fax phone number for the organization where this application or proceeding is assigned is 703-308-6306.

Art Unit: 2643

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.



George Eng  
Primary Examiner  
Art Unit 2643